

**REGIONAL TRIBAL OPERATIONS COMMITTEE MEETING
U.S. EPA REGION 5
MARCH 05, 2003**

Meeting Participants:

Aunjane Gautreaux, EPA, IEO	Tonya Fish, AIEO, EPA, HQ's
Cheryl Newton, EPA, ARD	Jennifer Hill-Kelley, Oneida Tribe
Lisa C. Farmby-Fleet, EPA, IEO	Ralph Dashner, Bad River Band
Jodi Traub, EPA, WD	Kira Jensen, Little Traverse Bay Band
Bill Dew, EPA, IEO	Mark Parrish, Pokagon Potawatomi
Tom Skinner, EPA Regional Administrator	Kirsten Cahow, Bad River Band
Douglas Craven, Little Traverse Bay Band	Tim Martineau, Hannahville Indian Community
Pat Thompson, EPA, RMD	Reggie Cadotte, Red Cliff Band of Lake Superior
Tina L. VanZile, Sokaogon Chippewa	Leah LaPointe, Red Cliff Band of Lake Superior
Michael B. Whitt, Shakopee Mdewakanton	Sally Kniffen, Saginaw Chippewa
Jennifer Manville, EPA, IEO	Patty O'Donnell, Grand Traverse Band
Phyllis Reed, EPA, WPTD	Paul Ninham, Oneida Nation
Scott Doig, Prairie Island Indian Community	Laura Mays, Smith River Rancheria
John Persell, Minnesota Chippewa	Stan Ellison, Shakopee Mdewakanton Sioux
Edward Fairbanks, EPA, IEO	Bert Frey, EPA, ORC
Dee A. Mayo, Lac du Flambeau Band of Lake Superior	Don deBlasio, EPA, OPA
Dan Tyrolt, Lac Courte Oreilles	Fred Becker, EPA, USTS
George Halloran, EPA, USTS	Chris Kushman, ITC of Michigan
Scott Hansen, Mille Lacs Band	Scott Wieting, Hannahville Indian Community
Kelly Jacobs, Keweenaw Bay Indian Community	Mike Sladewski, Keweenaw Bay Indian Community
Charles Bearfighter-Reddoor, EPA-HQ's, OSW	Tim Davis, Saginaw Chippewa Indian Tribe
Lori Grace, Saginaw Chippewa Indian Tribe	Connie Freiburger, Saginaw Chippewa Tribe
Les Connor, Bois Forte Chippewa	Jim Dunning, Ho-Chunk Nation
Brett McConnell, Lac Courte Oreilles Tribe	William Mirdeza, Saginaw Chippewa Tribe
David B. Jones, Huron Potawatomi	Stephanie Ogren, Little River Band of Ottawa Indians
Paul Ripple, Little River Band of Ottawa Indians	Rachel Schwarz, Little Traverse Bay Bands Odawa
Diane Thompson, Leech Lake Band of Ojibwe	Bob Newport, EPA, WD
Dan Cozza, EPA, WD	Shirley Nordreen, Leech Lake Band
Mary Wilson, Grand Traverse Band of Ottawa & Chippewa Indians	
Cole Belongie, Lac Vieux Desert Band of Lake Superior	

Welcome and Introduction

Skinner opened the meeting, welcoming participants to Region 5. Introductions were made. Craven indicated that he was glad to see that a number of tribes had chosen to attend the meeting and believes that it is important to continue to schedule the RTOC meeting in conjunction with the annual conference for the General Assistance Program.

Skinner reported that Administrator Whitman was invited to attend the meeting, and while she expressed interest in attending was ultimately unable to attend due to a schedule conflict. Whitman communicated to Region 5 that she would be interested in attending the next meeting of the RTOC.

Mark Parrish presented the official tribal flag of the Pokagon Band of Potawatomi to Skinner. The

flag will be displayed with the tribal and state flags located in the Regional Administrator's office on the 19th floor.

RTOC Administrative Business and Updates

Dew reported that the minutes from the RTOC meeting of December 05, 2002, were included in the meeting packet. No corrections/additions were requested and the meeting minutes were approved.

Manville reviewed the status of the action items listed in the RTOC Tracking Matrix (included as an attachment to these notes).

Craven, who is serving as an interim representative from Region 5, provided an update on the National Tribal Operations Committee (NTOC). The NTOC is working on the U.S. EPA Fiscal Year 2005 budget request. A schedule has been developed to provide input to the Agency. Tribal comments/input should be forwarded to Larry Wawronowicz. The NTOC is also working to establish a formal meeting schedule.

Dew reported that the Federal Multi-Agency MOU Work Group met in February 2003, and U.S. EPA was represented by Casey Ambutas. Meeting notes are under development. The next meeting will be hosted by the Federal Emergency Management Agency on May 07, 2003, at their office in Chicago.

A question was raised concerning whether Region 5 had an up-to-date list of Minnesota tribal contacts for distribution of the RTOC agenda and minutes. The Indian Environmental Office will verify the contacts.

Clean Water Action Section 106 Funding Formula

Traub explained that there is a national set-aside for tribes under Section 106, and that amount has been fixed for the past few years. The funding formula has not changed, but instead some of the factors used in the formula are changing (use of 2000 census data and additional tribes now eligible for funding). In Fiscal Year 2003, the Region 5 share of the national Section 106 tribal set-aside will be decreasing from 18% to 17%. Region 5 believes that it can sustain funding levels in Fiscal Year 2003, despite that reduction. However, with the proposal to include the Oklahoma tribes in the funding formula, the Region 5 allocation would decrease from 18% to 14% in Fiscal Year 2004. This would mean a funding decrease from \$4.1 million to \$3.2 million.

Schwarz reported that a letter has been drafted to Administrator Whitman and others at Headquarters concerning the proposed decrease to the Region 5 share of the Section 106 funds. Schwarz is in the process of collecting tribal comments on the letter and letters of support from tribes. The letter will include a request to U.S. EPA for additional funds to be placed in the tribal set-aside.

Craven raised the possibility of a joint letter from the RTOC Co-Chairs to Headquarters that would request additional funding for tribes, consideration of other options, and creation of a workgroup.

Ellison recommended that the concept of "OTSA" used in Oklahoma be further evaluated. Other tribes may also try to use this concept to increase their funding. The formula needs to be fair.

Hill-Kelley stated that U.S. EPA could assist by explaining the process. The formula should take into

account tribes that have moved beyond the base program.

Traub indicated that Headquarters needs data. The water program need for each reservation needs to be established. Adding a factor in the formula about developmental stage could be evaluated.

Fish reported that Carol Jorgensen of the American Indian Environmental Office (AIEO) met with the Headquarters Office of Water on Section 106 funding. AIEO advocated for an increase to the tribal set-aside. The President's budget request for Fiscal Year 2004 includes an increase to Section 106.

There was agreement to form a small work group (5-6 people) that includes Region 5 staff and tribal representatives to review the funding formula and to discuss responses. Those interested in participating should contact Traub.

Ellison stated that there are tribal concerns about needs assessments. Such work takes resources. The issue should be discussed at the work group.

Fish added that the AIEO has advocated that the Office of Water form a water tribal group similar to the Tribal Science Council.

Budget Issues

Niedergang provided a summary of the current status of the Agency's budget cycle. On February 20, 2003, an allocation plan was passed for Fiscal Year 2003. The operating plan should be issued this week, which will identify the Region 5 share of each program. Overall, there will be a 0.65% reduction. There was a \$5 million increase to the General Assistance Program.

For Fiscal Year 2004, approximately 15 programs have been targeted for an increase, which demonstrates the priorities of the Administration. Programs targeted for increases include: General Assistance Program (\$5 million), air toxics monitoring, child asthma, Clear Skies Initiative, Brownfields, Section 106 (\$20 million), Great Lakes Legacy, and wetlands.

Currently, the Agency is in the process of formulating the budget for Fiscal Year 2005. The top 6 priorities among the 10 Regions are urban air toxics and environmental justice, homeland security, sensitive populations, tribal infrastructure, energy conservation, and regional support. A planning meeting will be held in May and the budget will be developed in July.

Niedergang encouraged the tribes to be involved through the NTOC and through on-going communication with the media programs.

Fish added that the 0.65% decrease in Fiscal Year 2003, will be across the board, which translates to a \$376,000 reduction to the General Assistance Program. Headquarters is looking at options to handle the reduction. In addition, the Fiscal Year 2003 budget provided authority to the Agency for direct implementation tribal cooperative agreements.

Mathur mentioned that in addition to the activity reported by Niedergang, Region 5 is also bringing attention to base program issues and has requested that the National Program Managers include tribal

issues in their respective programs.

Ellison stated that there is a perception that tribal set-asides are viewed by U.S. EPA as ceilings for tribal funding. Some tribes should also be able to compete with the states for certain funding sources.

Gulezian announced that funding applications for grants through the Great Lakes National Program Office are due March 30, 2003. There is a 5 percent match requirement. Topics covered by the funding include: contaminated sediments, habitat restoration, Lake-wide Area Management Plans, and others.

Government-to-Government Relationship

Treatment-as-State

Field explained that this issue was on the agenda of the June 2002 RTOC meeting, in response to recent U.S. Supreme Court decisions. At that meeting, Region 5 affirmed that its policy had not changed – TAS applications will continue to be processed on a case-by-case basis.

Ellison stated that there are a number of areas/programs that could be delegated to tribes. U.S. EPA should have a less passive approach to tribal delegations. Tribes want to work with the Indian Environmental Office to get the process more interactive and institutionalized.

It was agreed that the Indian Environmental Office would look into coordinating the issue across the Region. In an effort to exchange more information, a packet of materials about program delegation opportunities will be prepared and distributed to the tribes. In addition, scoping meetings will be scheduled in each state to provide tribes an opportunity to raise issues concerning delegations.

Inter-Jurisdictional Conflict

Ellison indicated that U.S. EPA may be in a position to mediate between states and tribes to keep issues out of the court system. Field stated that there are two levels of conflict: (1) state v. U.S. EPA and (2) state v. tribes. It might be better to start a dialogue between U.S. EPA and the tribes first. It was agreed that Dew and Field would coordinate a conference call between Region 5 staff and tribal contacts to discuss these issues.

Federal to Tribal Relationships and Homeland Defense

Muno provided an overview of the roles of the Federal Emergency Management Agency and U.S. EPA related to homeland security. U.S. EPA has a specific role in the protection of public drinking water supply systems. Systems that serve over 3300 people need to conduct a vulnerability assessment, which will be due in June 2004. Six tribes in Region 5 will likely need to comply with this requirement. Region 5 has provided a \$135,000 grant to the Inter-Tribal Council of Michigan to present training on vulnerability assessments. *After the meeting, Muno verified with the Safe Drinking Water Branch that the transient population figures for hotels and casinos are included in the calculation of total population to be compared to the 3300 figure given above. These figures should be average occupancy estimates as determined by the Tribes. They should reflect typical operating conditions and avoid extremes at either end of the spectrum... the Fourth of July weekend or a sub-zero day in January.*

Funding Management

Ellison explained that the General Assistance Program grants are no longer serving the purposes needed by tribes. These grants are restricted to planning, and what is needed is a flexible grant product that will allow tribes to implement programs.

Fish recommended that the tribes address this issue to Congress, as well as to the U.S. EPA programs.

There was a suggestion that there be a demonstration phase to test new uses of the General Assistance Program.

Craven requested that a dialogue with the Headquarters of the Office of General Counsel be re-opened to review the interpretation of the use of the General Assistance Program.

Skinner encouraged tribes to attempt to use performance partnership grants as an option to fund implementation activities. In addition, Region 5 will consider submitting a proposal to Headquarters concerning interpretation of the General Assistance Program. The Office of Regional Counsel and the Indian Environmental Office will coordinate a Region 5 response.

Hill-Kelley suggested that U.S. EPA identify how many tribes are at the point of implementation, and that tribes could provide input into the discussion.

Ellison added that additional money is not being requested, just the ability to establish new uses for the funding. Without the ability to implement, tribes and the U.S. EPA have lost many years of investment in tribal environmental programs.

Open Forum

Skinner introduced a proposal to the RTOC to establish an award in the name of Taimi Hoag. Skinner recognized Taimi with the following remarks:

“In December 2002, the tribes and federal staff in Region 5 lost a very special colleague and friend, Taimi Hoag. Taimi contributed toward environmental protection in Indian Country at many levels and in many forums.

In her community, Taimi served as the Environmental Director for the Little Traverse Bay Bands of Odawa Indians. In the late 1990s she returned to her Tribe to help establish an Environmental Services Department. With the help of her staff, the Little Traverse Bay Bands Environmental Services Department has become a vocal leader in Michigan on issues such as tribal sovereignty and protection of water resources in the Great Lakes Basin. She also brought her vision of environmental protection and cultural preservation to other areas of the Tribal government by serving, for example, on the Housing Commission.

Taimi was a regional leader for environmental protection in Indian Country. For two years, she has represented the tribes in Michigan on the Regional Tribal Operations Committee. Taimi played an important role in policymaking at the regional level, actively participating in consultation sessions and providing constructive input on proposed Region 5 policies and programs. Perhaps most importantly, she acted as a

catalyst, holding Region 5's "feet to the fire" and insisting on answers or responsive action.

Taimi was rapidly becoming a national leader for environmental protection in Indian Country. In 2002, she agreed to serve as a Region 5 representative to the National Tribal Operations Committee, and in December was selected to serve as Secretary of that organization. Taimi was a valuable member of national work groups that assist U.S. EPA to develop policies and make program decisions, including a Consultation Work Group and a Clean Water Act Section 106 Work Group. Her experience and her environmental convictions will be missed.

Taimi lost her battle with cancer, but her accomplishments and her belief in environmental protection should be remembered and cherished. In that spirit, we would like to propose that the RTOC consider establishing an annual "Taimi Lynne Hoag Environmental Stewardship Award", to present to others in the tribal environmental protection arena that also exemplify these characteristics".

The Environmental Stewardship Award would be presented annually to a tribal leader, manager, or staff person that contributed to environmental protection in Indian Country. The award criteria are included as an attachment to these meeting notes.

Craven indicated that he supports the establishment of the award and believes its appropriate and respectful. Hill-Kelley stated that the Oneida Tribe is supportive of the award. O'Donnell indicated that she believes that the Michigan Tribal Environmental Group would support the award. VanZile voiced her support and recommended that Taimi's family be invited to the first award presentation.

Niedergang reported that applications for the National Information Exchange Network Grants are due March 18, 2003. A copy of a memorandum dated January 24, 2003, on Strengthening Grants Management was distributed.

Berini requested an update on the Central Regional Air Planning (CenRAP) group. In particular, raising the issue of respecting tribal government participation in the organization. Skinner indicated that Region 5 would investigate and respond directly to Berini and the RTOC.

Next RTOC Meeting

The next RTOC meeting will be hosted by the Minnesota Tribes on Wednesday, June 04, 2003.

Taimi Lynne Hoag Award for Environmental Stewardship

Purpose:

This award recognizes significant contributions in environmental management and/or environmental stewardship by a tribal leader, manager, or staff person, given in honor of Taimi Lynne Hoag of the Little Traverse Bay Bands of Odawa Indians. Taimi served as the Environmental Director for LTBB from 1999-2002, and was a leader at the regional and national levels for environmental protection in Indian Country.

Criteria:

Nominees must meet at least one of the criteria listed below. Candidates may be nominated based on more than one of these criteria.

1. Demonstrates a high degree of initiative, leadership, and/or accomplishment pertaining to the achievement or advancement of environmental protection in Indian Country.
2. Provides exceptional commitment, direction, representation, or stimulus on significant issues related to the assessment and protection of the air, water, land, or other natural resources of a particular Indian Tribe or in greater Indian Country.
3. Develops/leads a public forum to address a significant environmental issue(s) affecting an Indian Tribe or Indian Country.
4. Makes a positive and noteworthy contribution to a Tribe's environmental/natural resources protection programs/activities in a leadership capacity for an extended period of time.

Eligibility:

The following tribal leaders and/or staff from a federally-recognized Indian Tribe located in U.S. EPA Region 5 are eligible to be nominated:

- Elected official(s);
- Director(s)/manager(s) of a tribal environmental/natural resources protection program; or
- Staff person(s) of a tribal environmental/natural resources protection program

Selection and Presentation:

Nominations should be submitted to the Director of the U.S. EPA Region 5 Indian Environmental Office in September. A subcommittee of the Regional Tribal Operations Committee (RTOC) will be formed to review the nominations and select a recipient. The Award will be presented to the recipient at the December meeting of the RTOC.

REGIONAL TRIBAL OPERATIONS COMMITTEE
TRACKING MATRIX – March 05, 2003

Key Action	Raised	Lead	Status
1. Approval of September 2002 meeting minutes.	09/04/02 12/04/02	IEO	Revised minutes are included in the RTOC meeting packet.
2. Verify status of draft Office of Enforcement and Compliance Assistance (OECA) national tribal enforcement and compliance strategy.	09/04/02 12/04/02	IEO	OECA is in the process of obtaining final approval of strategy. The document will be sent out from OECA and tribes will have an opportunity to comment. Potential for regional availability sessions.
3. Region 5 Enforcement and Compliance Policy * reinforce the use of the policy * reissue policy to Region 5 inspectors * report out on status of Regional Indian Work (RIWG) group evaluation of policy	12/04/02	IEO	RIWG subgroup drafted revised policy. The Enforcement and Compliance Assistance Team will be briefed on the policy. The draft revised policy will be provided to the Region 5 tribes for comment. It is anticipated that the revised policy will be finalized and provided to Region 5 enforcement staff prior to resumption of inspections this Fiscal Year.
4. Schedule follow-up conference calls with tribes that had concerns about recent inspections by the Office of Underground Storage Tanks (OUST).	12/04/02	OUST	OUST conducted conference calls with the Grand Traverse Band and Hannahville. Attempted to complete calls with Oneida and Mole Lake. Additional calls can be scheduled at the request of the tribes.
5. Schedule conference call between Resource Management Division and tribes that had on-site grant reviews in FY 2002.	12/04/02	IEO, RMD	Due to tribal personnel changes, the conference call was not scheduled. Any issues will be communicated by the tribes in a written response.
6. RTOC Co-chairs invite Administrator Whitman to the March 2003 meeting.	12/04/02	IEO	Invitation was submitted to Whitman, who had a schedule conflict. Administrator has indicated interest in attending the June meeting.

7.	Update tribal contact list each quarter and provide to the Region 5 Divisions/Offices.	12/04/02	IEO	
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